

STATE OF MICHIGAN
COURT OF APPEALS

ROBERTO RUZZA and ANGELA RUZZA,

Plaintiffs-Appellees,

v

EDWARD FUGATE,

Defendant-Appellant,

and

T. ROBINSON and NULITE, INC.,

Defendants.

UNPUBLISHED

March 27, 2007

No. 265680

Macomb Circuit Court

LC No. 2005-001066-AV

Before: Owens, P.J., and Neff and White, JJ.

WHITE, J. (*concurring in part and dissenting in part*).

I agree that the district court's award of attorney fees in plaintiffs' favor should be vacated. However, I respectfully disagree with the majority's determination to vacate the \$25,000 money judgment. Given the posture of this case, I consider the pertinent issue to be whether the district court's final judgment of \$25,000 in plaintiffs' favor may stand. I agree with the circuit court's affirmance of that judgment as within the district court's jurisdictional limitation.

The court rule relied on by the majority simply states that if a money judgment in excess of the district court's jurisdiction is sought, that portion of the action must be severed and transferred to circuit court. This provision is in recognition of the district court's limited money jurisdiction. Claims for rent not exceeding \$25,000 are, of course, within the district court's jurisdiction. A plaintiff seeking a damage award of \$48,000 faced with a request to transfer, or a district court's recognition of the jurisdictional issue, may move to amend the complaint to seek only \$25,000 damages. This is, in effect, what occurred at the post-trial hearing. Because the amount of the final judgment, and the underlying subject matter of the claim, are within the jurisdiction of the district court, I would affirm.

/s/ Helene N. White